

21 C.J.S. Courts § 62

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

D. Jurisdiction of Person

4. Particular Circumstances or Actions Affecting Exercise of Personal Jurisdiction

§ 62. Agent or representatives subject to personal jurisdiction by acts of principal—Fiduciary shield doctrine

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  13.6(5)

Under the fiduciary shield doctrine, a person acting as an agent or corporate fiduciary is not thereby subjected to personal jurisdiction except for personally committed torts directed at the forum state.

Some authorities adhere to the fiduciary shield doctrine, under which a person acting solely in a capacity as an agent¹ or corporate fiduciary is not thereby subjected to the personal jurisdiction of the forum,² subject to exceptions for specific personal jurisdiction³ if the person commits intentional torts,⁴ intentional misconduct or negligence,⁵ fraud,⁶ misfeasance, malfeasance, and breach of fiduciary duty,⁷ or other torts aimed at the forum state.⁸ The doctrine did not apply to insulate general partners in limited partnerships when the individuals engaged in tortious activity

directed toward the forum state.⁹ In some states, the shield is removed if the individual's personal interests motivated the actions or when the individual's actions are discretionary.¹⁰

Some states generally reject the fiduciary shield doctrine,¹¹ and a person's status as an employee does not constitutionally require that the person be insulated from jurisdiction.¹²

CUMULATIVE SUPPLEMENT

Cases:

Ohio gun retailer was not subject to personal jurisdiction in New York based on wholesale distributor's contacts with New York, where distributor was not acting as retailer's agent in improperly selling guns to gun trafficking ring, and distributor was not retailer's alter ego at time of alleged tortious conduct. [Williams v. Beemiller, Inc.](#), 159 A.D.3d 148, 72 N.Y.S.3d 276 (4th Dep't 2018).

Fiduciary-shield doctrine did not apply to prevent chief executive officer (CEO) of Delaware corporation from being subject to specific jurisdiction in Texas court, in Texas corporation's action against CEO for various intentional torts, alleging that CEO hired former employee and was exploiting his knowledge of Texas corporation's trade secrets to acquire oil and gas field, where CEO was a corporate representative who was alleged to have committed torts for which he could be held individually liable. [Silber v. Shallow Production Solutions, Inc.](#), 656 S.W.3d 500 (Tex. App. El Paso 2022).

[END OF SUPPLEMENT]

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Footnotes

- 1 Tex.—[Stull v. LaPlant](#), 411 S.W.3d 129 (Tex. App. Dallas 2013).
- 2 U.S.—[Continental Motors, Inc. v. Jewell Aircraft, Inc.](#), 882 F. Supp. 2d 1296 (S.D. Ala. 2012) (applying Alabama law); [Elandia Intern., Inc. v. Ah Koy](#), 690 F. Supp. 2d 1317 (S.D. Fla. 2010) (applying Florida law); [Sledge v. Indico System Resources, Inc.](#), 68 F. Supp. 3d 834 (W.D. Tenn. 2014) (applying Tennessee law); [North Texas Opportunity Fund L.P. v. Hammerman & Gainer Intern., Inc.](#), 107 F. Supp. 3d 620 (N.D. Tex. 2015) (applying Texas law).
- Fla.—[Schwartzberg v. Knobloch](#), 98 So. 3d 173 (Fla. 2d DCA 2012).

Ill.—Petrich v. MCY Music World, Inc., 371 Ill. App. 3d 332, 308 Ill. Dec. 968, 862 N.E.2d 1171 (1st Dist. 2007).

Ind.—Bowden v. Agnew, 2 N.E.3d 743 (Ind. Ct. App. 2014).

Nev.—Consipio Holding, BV v. Carlberg, 282 P.3d 751, 128 Nev. Adv. Op. No. 43 (Nev. 2012).

Ohio—State ex rel. DeWine v. S & R Recycling, Inc., 195 Ohio App. 3d 744, 2011-Ohio-3371, 961 N.E.2d 1153 (7th Dist. Columbiana County 2011).

Tex.—Booth v. Kontomitras, 2016 WL 240887 (Tex. App. Beaumont 2016).

Shield is not automatic

Wash.—Failla v. FixtureOne Corp., 181 Wash. 2d 642, 336 P.3d 1112 (2014), cert. denied, 135 S. Ct. 1904, 191 L. Ed. 2d 765 (2015).

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Validity, construction, and application of "fiduciary shield" doctrine—modern cases, 79 A.L.R.5th 587.

Tex.—Cagle v. Clark, 401 S.W.3d 379 (Tex. App. Texarkana 2013).

U.S.—Elandia Intern., Inc. v. Ah Koy, 690 F. Supp. 2d 1317 (S.D. Fla. 2010) (applying Florida law); High Plains Const., Inc. v. Gay, 831 F. Supp. 2d 1089 (S.D. Iowa 2011) (applying Iowa law); North Texas Opportunity Fund L.P. v. Hammerman & Gainer Intern., Inc., 107 F. Supp. 3d 620 (N.D. Tex. 2015) (applying Texas law).

Fla.—Schwartzberg v. Knobloch, 98 So. 3d 173 (Fla. 2d DCA 2012).

Tex.—Booth v. Kontomitras, 2016 WL 240887 (Tex. App. Beaumont 2016).

Fla.—Kitroser v. Hurt, 85 So. 3d 1084 (Fla. 2012).

Fla.—Schwartzberg v. Knobloch, 98 So. 3d 173 (Fla. 2d DCA 2012).

Tex.—Tabacinic v. Frazier, 372 S.W.3d 658 (Tex. App. Dallas 2012).

Nev.—Consipio Holding, BV v. Carlberg, 282 P.3d 751, 128 Nev. Adv. Op. No. 43 (Nev. 2012).

U.S.—Continental Motors, Inc. v. Jewell Aircraft, Inc., 882 F. Supp. 2d 1296 (S.D. Ala. 2012) (applying Alabama law).

Fla.—Kitroser v. Hurt, 85 So. 3d 1084 (Fla. 2012).

Tex.—Tabacinic v. Frazier, 372 S.W.3d 658 (Tex. App. Dallas 2012).

Ala.—Ex parte Kohlberg Kravis Roberts & Co., L.P., 78 So. 3d 959 (Ala. 2011).

U.S.—Scherr v. Western Sky Financial, LLC, 77 F. Supp. 3d 770 (N.D. Ill. 2015) (applying Illinois law).

U.S.—Source One Financial Corp. v. Dinardo Auto Sales LLC, 2 F. Supp. 3d 180 (D. Conn. 2014) (applying Massachusetts law); Frankford Crossing Shopping Center Dallas, Tx. Ltd. Partnership v. Pho Partners, LLC, 942 F. Supp. 2d 366 (W.D. N.Y. 2013) (applying New York law).

N.Y.—People ex rel. Schneiderman v. Orbital Pub. Group, Inc., 50 Misc. 3d 811, 21 N.Y.S.3d 573 (Sup 2015).

U.S.—Calder v. Jones, 465 U.S. 783, 104 S. Ct. 1482, 79 L. Ed. 2d 804 (1984).

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